DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
    (1) Field of the Invention.
    (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Each section should be accompanied by the proper heading. Appropriate correction is required.

Drawings

The drawings are objected to because of the poor image quality of the Figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

inside the optical lumen and can be removed from the optical lumen.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 8-9 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,979,290 to Mourlas et al. in view of U.S. Patent No. 7,591,813 to Levine et al.

In regard to claims 1 and 8-9, Mourlas et al. disclose an endoscope comprising a flexible catheter probe 12 having a plurality of lumens 20a-d, a grip 30 provided at the proximal end of the probe, an optical system 64 provided in at least one optical lumen 20d of the catheter probe, at least one working lumen 20a for a surgical instrument 80, and a control element 22 attached at or near the distal end of the probe for bending the end of the probe and displacably guided in axial direction on the probe (see Col. 6, Lines 50-67), that the distal end of the optical lumen has a transparent seal 66/50, and that the optical system is displaceably disposed inside the optical lumen and can be removed from the optical lumen(see Figs. 1-2). Mourlas et al. disclose a trigger 32b' may be provided on the handle 30' that may be coupled to respective pullwires 22a,' 22b.' Thus, the dial 32' may be rotated to bend the catheter 12' in a first direction and the trigger 32b' may be pulled to bend the catheter 12' in a second direction, preferably substantially perpendicular to the first direction. The steering control(s) may be biased, e.g., to return the distal end 32 or 32' of the catheter 12 or 12' to a generally straight configuration when the control(s) is(are) released and that it will be appreciated that other control mechanisms and/or steering arrangements may be provided (See Col. 7, Lines 1-11). However, Mourlas et al. are silent with respect to the specifics of the control element wherein a torsion-resistant guide device inside which the control element is guided at the proximal end of the catheter probe is to be connected non-

rotatingly to the grip by-a releasable lock and the control element is to be connected by means of a releasable fastener to a slider guided inside the grip. Levine et al. teach of a control mechanism for an analogous medical apparatus wherein handle body 310 may incorporate a control/release knob 312 which is attached to a release screw 314. The screw 314 may be attached to a wire carriage 316, which may attach to push/pull wire via attachment 318. As the knob 312 is translated proximally or distally, carriage 316 may travel within channel 320 to either advance or retract the attached push/pull wire. Knob 312 may be tightened about screw 314 against handle 310 to lock a position of the push/pull wire during flexure, if desired. In yet another variation in FIG. 11, handle body 330 may have a control slide 332 configured to proximally or distally advance a wire carriage 334 within handle 330 (see Figs. 4a, 10-11 and Col. 11, Lines 33-42). It would have been obvious to one skilled in the art at the time the invention was made to provide an alternate control element on the apparatus of Mourlas et al. to enable a user to lock a potion of the push/pull wire during flexure as taught by Levine et al.

In regard to claim 2, Mourlas et al. disclose an endoscope, wherein the surgical instrument is removable from at least one working lumen (see Figs. 1-4).

In regard to claim 3, Mourlas et al. disclose an endoscope, wherein the catheter probe is configured as a disposable part. As broadly as claimed, any object is capable of being disposed.

In regard to claim 4, Mourlas et al. disclose an endoscope, wherein the catheter probe is configured as an injection-molded part or extruded part (See Col. 8, Line 48).

Additionally, Levine et al. teach extrusion molded is well known (see Col. 7, Lines 42-48).

In regard to claim 5, Mourlas et al. disclose an endoscope, wherein a torsion-resistant probe attachment member is provided at the proximal end of the catheter probe, said member having a plurality of lumen outlets for the probe lumens and the guide device for the control element (see Figs. 1a and 2a).

In regard to claim 14, Mourlas et al. disclose an endoscope, wherein the lumen outlets for the plurality of probe lumens can be connected to associated terminal equipment 70, 72 independently of the grip and external to the grip (see Figs. 1a and 2a).

In regard to claims 15-16, Mourlas et al. disclose an endoscope, further comprising a device *for* mechanical lithotripsia and an outer sleeve tube which *can be* slid over the catheter probe (see Figs. 1-4). The word "for" in the claim may be properly interpreted as "capable of," and "capable of" does not require that reference actually teach the intended use of the element, but merely that the reference does not make it so it is incapable of performing the intended use. Thus, the apparatus of Mourlas et al. is fully capable of passing a "device" for mechanical lithotripsia.

Claims 6-7 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,979,290 to Mourlas et al. in view of U.S. Patent No. 7,591,813 to Levine et al. in further view of U.S. Patent No. 5,549,542 to Kovalcheck.

In regard to claims 6-7 and 12-13, Mourlas et al. and Levine et al. disclose an endoscope with a control element for bending the end of the probe (see rejection

above) but are silent with respect to a biasing force against the control element and wherein the slider is displacably mounted on the grip housing by a device for converting a rotational movement into a linear axial movement, including a crank assembly. Kovalcheck teaches of an analogous endoscopic apparatus having a deflectable tip. A remotely bendable section adjacent a distal viewing tip enables movement of the tip between a neutral position and angularly disposed positions. A deflection control lever on a proximal control member causes deflection of the viewing tip by means of two sets of operating cables which are operatively connected at one end to the control member and at the other end to axially spaced locations along the controllably bendable section. A deflection control handle or lever 48, pivotally mounted on the control member 22, allows the surgeon to articulate the controllably bendable section 26 of the insertion tube 24 (See Figs. 1-6). It would have been obvious to one skilled in the art at the time the invention was made to provide a crank assembly control element on the apparatus of Mourlas et al. and Levine et al. to provide more precise control over the bending mechanism and thus more efficient and effective maneuverability during a surgical procedure as taught by Kovalcheck.

Claim 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,979,290 to Mourlas et al. in view of U.S. Patent No. 7,591,813 to Levine et al. in further view of U.S. Patent No. 6,929,600 to Hill.

In regard to claims 10-11, Mourlas et al. and Levine et al. disclose an endoscope with an optical system extended therethrough (see rejection above) but are silent with respect to an eyepiece holder is disposed at the proximal end of the grip

housing in a joint including a ball-and- socket joint. Hill teaches of an analogous endoscopic apparatus wherein a number of modifications can be made to a video scope 100 atatched at the distal end of an insertion tube. Specifically, a pivot means such as a ball joint may be connected to the second end 110 to rotatably connect the stylet 104 and the module 106 (see Figs. 6a-b and Col. 10, Line 45 – Col. 11, Line 4). It would have been obvious to one skilled in the art at the time the invention was made to provide a ball joint in the apparatus of Mourlas et al. and Levine et al. to make it easier for a practitioner to use the video scope during intubation so the practitioner does not have to stretch or twist his/her neck to look at an image as taught by Hill.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW J. KASZTEJNA whose telephone number is (571)272-6086. The examiner can normally be reached on Mon-Fri, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANH TUAN NGUYEN can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MATTHEW J KASZTEJNA/
Primary Examiner, Art Unit 3779

12/8/11